

STATE OF VERMONT  
PUBLIC SERVICE BOARD

Docket No. 7772

Joint Petition of Green Mountain Power Corporation     )  
("GMP") and Vermont Electric Cooperative, Inc.         )  
("VEC"), pursuant to 30 V.S.A. § 110-112, for             )  
authority to condemn easement rights in property         )  
interests of John and Debra A. Bevins, Westfield,         )  
Vermont, and Community National Bank, Derby,            )  
Vermont, for the purpose of constructing the 46 kV         )  
transmission line portion of the so-called Kingdom         )  
Community Wind Project   )

Order entered: 10/12/2011

**PREHEARING CONFERENCE MEMORANDUM AND SCHEDULING ORDER**

A prehearing conference in this docket was held on September 22, 2011. The following parties attended the prehearing conference: Vermont Department of Public Service ("DPS") by Louise Porter, Esq.; Green Mountain Power Corporation and Vermont Electric Cooperative, Inc. (jointly, "Petitioners") by Joslyn L. Wilschek, Esq., of the law firm, Primmer Piper Eggleston & Cramer PC; and Debra A. Bevins, *pro se*.

The Petitioners proposed a schedule for this proceeding, which they had previously shown to the DPS. I took the Petitioners' proposed schedule under advisement and gave Ms. Bevins until September 30, 2011, to discuss, either directly or through counsel, scheduling matters with the Petitioners to see if an agreement on a schedule could be reached. Also, at the prehearing conference, Ms. Bevins discussed some of her concerns and focused, among other things, on the effect the easement condemnation and construction process would have on her efforts to sell her house and land.

On the same day as the prehearing conference, there was a site visit to the Bevins' property with the participation of the parties that attended the prehearing conference. Both a visual inspection of the property during the site visit and a cursory review of the exhibits to the Petitioners' prefiled testimony reveal that portions of the existing easement and transmission line

are located relatively close to the rear of the Bevins' house and suggests the possibility, at least with respect to the proposed changes to the easement, that there may be an impairment to the value of the property.<sup>1</sup> At the back of the house, there were several mature trees, including evergreens, that appear to be located either within the existing easement or the proposed expanded easement and that provide screening of an existing utility pole and transmission line. At the site visit, the Petitioners indicated they would be in further contact with Ms. Bevins concerning which of these screening trees would have to be removed and as to alternatives that may be available. I encourage the Petitioners to work with Ms. Bevins and the DPS to seek to address Ms. Bevins' concerns, and all the parties to make reasonable efforts to achieve an appropriate settlement, including fair compensation.

To the extent the parties are not able to reach a settlement, the impairment to the value of the remaining property<sup>2</sup> would appear to be one area for further discovery and of potential dispute among the parties. Ms. Bevins should be aware that if she disagrees with the conclusion of the Petitioners' appraiser about the absence of any impairment to the property, she may wish to address this issue and establish an amount of value impairment through prefiled expert testimony. Of course, the landowners' prefiled testimony may also address any other matter relevant to any of the required findings under Section 112 of Title 30.

The Petitioners filed a letter on October 3, 2011, stating that Ms. Bevins had contacted them on September 30 and indicated that she planned to meet with an attorney the following week. As of the date of this Order, the Board has received no comments from Ms. Bevins or any attorney representing her with regard to a proposed schedule. Under the circumstances and to avoid further delay, it is necessary to set an appropriate schedule without further input from the parties. The schedule proposed by the Petitioners at the prehearing conference contemplates a technical hearing as early as November 28, 2011. Given the potential issues in this proceeding and the delays to date, this proposed schedule seems overly aggressive and untenable.

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1. It should be noted that the appraisal report filed by the Petitioners was not based on an actual inspection of the property but in part on visual inspection of the property from North Hill Road. See exhibit GMP/VEC-1 at 11 to the prefiled testimony of Stephen D. Allen filed by the Petitioners on June 17, 2011.

2. See 30 V.S.A. §112(4).

Accordingly, I establish the following schedule which is subject to modification by agreement of the parties or for good cause (including a joint request by all parties for additional time to pursue settlement discussions):

Through October 24, 2011	Rolling discovery on Petitioners, with October 24 the last day to serve written discovery. Petitioners have ten calendar days to respond to written discovery requests.
November 18, 2011	Landowners and DPS file initial testimony and appraisal reports
November 23, 2011	Deadline for discovery requests on landowners and DPS
December 2, 2011	Landowners and DPS respond to discovery
December 12, 2011	Rebuttal testimony from Petitioners
December 19, 2011	Deadline for discovery requests re rebuttal testimony
December 30, 2011	Motions and stipulations due, discovery complete
Week of January 9 or 17, 2012	Technical hearings, with live surrebuttal by landowners and DPS
Two weeks after technical hearing	Briefs due
Three weeks after technical hearing	Reply briefs due

**SO ORDERED.**

Dated at Montpelier, Vermont, this 12<sup>th</sup> day of October, 2011.

s/Lars Bang-Jensen  
Lars Bang-Jensen  
Hearing Officer

OFFICE OF THE CLERK

FILED:      October 12, 2011

ATTEST: s/Susan M. Hudson  
Clerk of the Board

*NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)*